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**RESEARCH PAPER**

**Women's Land Rights in Pakistan: Laws, Policies, and Practices**

<sup>1</sup> Mazhar Abbas, <sup>2</sup>Minha Fazal, and <sup>3</sup>Muhammad Yasin Shafique\*

1. Principal Investigator and Lecturer, Department of History Government College University Faisalabad, Pakistan.
2. BS Student of Psychology, Government College University Faisalabad, Pakistan.
3. M. Phil Student of History, Government College University Faisalabad, Pakistan.

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**\*Corresponding Author:** yasincheema92@gmail.com

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**ABSTRACT**

This research paper explores how institutional systems, patriarchy, and elements of dominant culture impede women's land ownership rights in Pakistan. A survey conducted in rural Punjab by the United Nations Economic and Social Commission revealed that only 36 out of 1,000 women possessed property rights, with a mere nine able to sell or trade property without male consent. The study investigates the primary factors contributing to Pakistan's poor state of women's land rights using a directed qualitative content analysis approach, drawing upon both primary and secondary archival data. The findings highlight that a combination of laws—including religious codes, state legislation, and tribal customs—along with policies and entrenched cultural practices, collectively hinder women's access to land rights. There is an urgent need for new interpretations of legal and religious obligations, eradicating harmful customs, and implementing awareness programs to educate families about women's rights to own and control property.

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**KEYWORDS** Women's Land Rights, Laws, Policies, Practices

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**Introduction**

In the developing world, property serves as a crucial safeguard against poverty. However, in many regions, unequal property rights exacerbate gender inequality and perpetuate poverty, disproportionately affecting women (Agarwal, 1994a; Budlender & Alma, 2011). This assertion is supported by Anna Wellenstein, the World Bank's director, who emphasises that "secure land rights are essential for women's economic empowerment, creating incentives for investment, providing an asset that can be leveraged for agricultural or business development, and offering a solid foundation for financial stability" (The World Bank, 2019). Her comments underscore the vital role of land and other forms of property in empowering women economically and advancing their social and political status across various cultural contexts. In agrarian societies, land symbolises political power, cultural identity, democratic decision-making, and protection against domestic abuse (Ahmed, et. al., 2015).

Consequently, numerous organisations, human rights advocates, and feminists worldwide advocate codifying and implementing legislation that guarantees women's rights to own, inherit, utilise, control, manage, and dispose of financial assets, including land (Abbas, 2020). International conventions and treaties adopted by various states under the United Nations (UN) further bolster these efforts (Udoh et al., 2020). Among these agreements are the First and Fifth Sustainable Development Goals (SDGs), in which participating states pledge to eliminate poverty in all its forms everywhere, particularly by ensuring women's ownership and control over land and other properties and by

advancing gender equality, dismantling patriarchy, and empowering women and girls (United Nations, 2015).

Therefore, women's socioeconomic and political empowerment heavily relies on their land rights (Doss & Meinzen-Dick, 2020). Ironically, these rights are often denied due to entrenched patriarchal systems, misinterpretations of religious doctrines, local laws, and, critically, ineffective legal enforcement mechanisms (Giovarelli et al., 2013). According to a World Bank report, even when women are granted ownership rights, they are frequently denied control over their property in nearly half of the world (The World Bank, 2019).

In this context, women's rights to own, control, manage, utilise, and dispose of land remain exceedingly limited globally, and Pakistan is no exception. Currently, 27.68 percent of Pakistan's 79.61 million hectares of land is cultivated, with 47.79 percent devoted to agriculture. In regions with minimal land ownership, women continue to face significant barriers. For example, a survey conducted in rural Punjab by the United Nations Economic and Social Commission for Asia and the Pacific revealed that only 36 women out of 1,000 surveyed households had the right to own property. Of these, merely nine possessed the authority to sell or trade without their male relatives' consent (Abbas, 2020).

Against this backdrop, this research study addresses the following questions: 1) Why are women's land rights in Pakistan so inadequate? 2) Are institutional systems responsible for denying them the rights they deserve? 3) Or are patriarchy and other elements of the dominant culture to blame for the denial of their rights to own, control, manage, utilise, and dispose of land? These inquiries will be examined through qualitative content analysis of primary and secondary archival data.

Like many research studies, this paper has its limitations. For instance, 96.28 percent of Pakistan's population identifies as Muslim, with around 90 percent adhering to Sunni Islam (Mohammad, 2022). Consequently, this research primarily focuses on the Muslim population, mainly Sunni Muslims, while overlooking other groups. Additionally, while various types of land – such as agricultural, residential, commercial, urban, and forest land – exist, this study explicitly addresses agrarian land.

### **The Laws Governing Women's Land Rights in Pakistan**

In Pakistan, adult women have the legal right to own, acquire, transfer, sell, or gift property, just as men do. They are also empowered to enter into contracts in any manner they choose. Women who hold property can mortgage it to secure loans and financing. The legal framework recognises their independent property rights (National Assembly of Pakistan, 2012). The laws governing women's land rights in Pakistan are categorised into religious codes, state laws, and tribal customs.

#### ***Religious Codes: The Islamic Law of Inheritance***

Islam, as Muslims believe, is an appropriate and universal religion. It is the last of the revealed religions, completing their history beginning with the Prophet Adam (AS) and ending with the Prophet Muhammad (PBUH) (Koller, 2004). Islam is considered a complete code of life. Along with other aspects of life, it guides women's land rights, including inheritance. Islam has established settled portions in inheritance since humans cannot influence the balance of relationships for the better (Sait & Lim, 2006). On the

contrary, pre-Islamic Arabia had altogether different practices regarding inheritance. The fundamental concepts of pre-Islamic Arabia's law of inheritance were: 1) women could not inherit or sell property, and 2) women were given the property that may be purchased and sold during marriage as collateral for debt repayment and held and inherited by their male partners (Muzaffar, et. al., 2018; Khan, 1999).

Therefore, pre-Islamic Arabia's inheritance obligations were unqualified patriarchal tyranny (Anderson, 1959). Sons were born with a vested interest in their father's property, whereas cognates or females were not eligible for inherited property. However, there was no difference between self-acquired and hereditary property (Batoool, 2023). Instead of giving property rights to women, they were deemed and treated as property. A brother or stepson used to take a deceased man's widow(s) and possessions. In other words, before the advent of Islam, if a man died and left a widow, his successor had the right to marry her under the mahr of her deceased master or to give her in marriage and take her mahr if he arrived straight away and threw his robe over her. However, they gained control of her if she foresaw him and fled to her people. This was likely the rationale behind the widow's marriage to her stepson and the deceased's brother (Tabari, 1905, p. 23). The Quran forbade this custom in the following words: "O believers! It is not permissible for you to inherit women against their will or mistreat them to make them return some of the dowry as a ransom for divorce – unless they are found guilty of adultery. Treat them fairly (4:19)."

Thus, pre-Islamic Arabia's customs treated women as property instead of ensuring and safeguarding their property rights. The advent of Islam and the introduction of Islamic inheritance law significantly modified pre-Islamic customary law rather than completely eradicating it, giving women their inheritance. Along with the Holy Quran and the Hadith, *Ijma* (consensus of jurists), *Qiyas* (analogical deduction of rules), and *Ijtihad* (evolving new legal principles based on the old ones), as well as *Takhayyur* (eclectic choice out of divergent legal principles within the Islamic law) and *Talfiq* (combination of two or more parallel legal rules to evolve a new one), are important sources of Islamic laws including that of inheritance, one of the most significant sources of landownership (Emon, 2012; Sookhdeo, 2006) – wills, gifts, and purchases are the others. On the right to inheritance, the Quran says, "For men, there is a share in what their parents and close relatives leave, and for women, there is a share in what their parents and close relatives leave – little or little. These are obligatory shares (7:4)." Elaborating further, the Quran adds, "Allah commands you regarding your children: the share of the male will be twice that of the female. If you leave only two or more females, their share is two-thirds of the estate. But if there is only one female, her share will be one-half (4:11)."

Women's property rights are also ensured in the sayings of Prophet Muhammad (PBUH) without any gender-based discrimination. Abu Huraira (RA) reported: The Prophet (PBUH) said, "If somebody dies (among the Muslims) leaving some property, the property will go to his heirs; and if he leaves a debt or dependants, we will take care of them (Sahih Bukhari, Volume 8, Book 80, Number 755)." In another Hadith, Ibn' Abbas (RA) narrated: The Prophet (PBUH) said, "Give the Fara'id (the shares of the inheritance that are prescribed in the Quran) to those who are entitled to receive it. Then whatever remains should be given to the closest male relative of the deceased (Sahih Bukhari, Volume 8, Book 80, Number 724)." Moreover, according to Ibn Majah's compilation, Abdullah bin Amr (RA) reported that the Messenger of Allah (PBUH) said, "A woman inherits from the blood money and wealth of her husband, and he inherits from her blood

money and wealth, so long as one of them did not kill the other (Sunan Ibn Majah, Chapter 26, Number 2736)."

The majority of Sunnis around the globe adhere to the Hanafi school of law, which is practised by the majority of Muslims in the South Asian subcontinent, including Pakistan (Fair, 2004). Imam Abu Hanifa and his students, Abu Yusuf and Imam Muhammad, meticulously drafted the inheritance rule. With a few variations here and there, other Sunni legal schools agree with the Hanafi school's intestate succession arrangement (Zahra, 1999). Under the pre-established Quranic shares under Hanafi law, there are twelve shareholders, four of whom are men and eight of whom are women. The mother, wife, grandmother (paternal or maternal grandmother as stated), sons, daughters, uterine sisters, and full sisters are all regarded as shareholders. Generally speaking, female shareholders receive half of the shares that male owners hold. The father would thus receive a one-sixth part and the mother a one-third share. The husband would receive half of his wife's property, while the wife would receive one-eighth of her husband's wealth. Daughters would get half the sons' share. Adopted children cannot inherit since the fundamental tenet of the Islamic Law of Succession is that only blood relations are eligible to do so (Arif & Ali, 1998). The predetermined "Quranic Shares" determine how inheritance is distributed. These comprise all immovable, moveable, ancestral, or self-acquired properties free of encumbrances like mortgages (Arif & Ali, 1998; Khan, 1999).

There is no doubt that Islam provided a woman with the right to inherit land when she was buried alive—she was considered an inheritance inherited by her husband's heirs after his death. Islam not only abolished these wrong practices but also gave women the right to inheritance and other rights. Equating a woman to a man was difficult when the former had no special social status. Therefore, a woman was given half of a man's property then. As per general perception, Islam puts a minimum bar or limit on a female's share, i.e. half of her male counterpart. However, it does not prohibit giving an equal share to both the daughter and the son. An equal share will benefit the family on the one hand and play a pivotal role in empowering women and advancing the cause of gender equality. Similarly, there is no joint ownership of the marital property in Islam—the husband and the wife purchase the property after marriage. That is why there is a dire need to revise the Islamic laws of inheritance regarding women's land rights according to the demands of the present time by using the Islamic method of *Ijtihad*.

### *The State Laws*

The government of Pakistan has also introduced multiple laws and regulations regarding women's land rights. Pakistan is a successor state of British India, so Pakistan mostly deduced its laws from hereditary British laws. After independence, Pakistan passed the Muslim Personal Law of Shariat in 1948 by making certain amendments to the Muslim Personal Law (Shariat) Application Act of 1937 (Naznin, 2014). This Act acknowledged that women had the right to inherit all types of property under local assumptions of Islamic women's rights but not with customary local practices. In addition, the Muslim Family Laws Ordinance was established in 1961 based on the recommendations of the Commission, which was established by the Government of Pakistan in 1955 to examine the country's marriage and family laws to guarantee women's rightful role in society under Islamic principles (Naznin, 2014).

The West Pakistan Muslim Personal Law (Shariat Application) Act 1962 was introduced following these laws. It states that inheritance should be handled per Shariat

principles, giving women half the property as males do (Government of West Pakistan, 1962). Although the law acknowledges women's property rights, this is rarely observed in reality since male relatives frequently use assault, coercion, and the right of *Tanazul* (relinquishment) to take back the property that women have inherited. This law is also overridden by the "compensatory principle," which holds that gifts and dowries make up for property (Holden & Chaudhary, 2013).

In addition, Pakistani citizens have equal rights to purchase, hold, own, and dispose of property under Article 23 of the 1973 Constitution (National Assembly of Pakistan, 2012). However, the government retains the authority to interfere with property rights if property ownership or disposal is considered against the general welfare. The protection of its residents is another duty of the state. Therefore, to defend the rights of those less fortunate in the areas of ownership and devolution, such as women and children, the state may intervene with an individual's property rights under Article 24 of the Pakistani Constitution (National Assembly of Pakistan, 2012). Nevertheless, neither the examined case nor the codified laws demonstrate this proactive involvement.

Moreover, the Pakistan Penal Code (Amendment) Act, 2005, was drafted in June 2005 by the Islamic Ideology Council (IIC). The Law, by deeming them un-Islamic, sought to end the barbaric practices of marrying a woman to the Holy Quran and *haq bakhshwana*. Additionally, it suggested that the government impose life imprisonment on anyone who wedded their sisters and daughters to the Holy Quran (Iqbal, 2005). These practices, marriage with the Quran and *haq bakhshwana*, were carried out to deny property rights to women. Furthermore, the 2011 Anti-Women Practices Act makes it illegal to deny women the right to inherit property, either directly through deceit or indirectly through customs like *haq bakhshwana* (The Gazetteer of Pakistan, 2011). This Act declares these activities unlawful and imposes penalties that range from fines to up to seven years in prison. Also, the Punjab Partition of Immovable Property Act of 2012 declared that land would be divided so that both spouses would hold it jointly as per their shares prescribed in the Shariat (Provincial Assembly of the Punjab, 2012).

In light of these circumstances and growing international pressure, including an impending GSP+ review, the Pakistani government has passed the Enforcement of Women's Property Rights Act 2021, giving women a dedicated platform to defend their property rights (Government of Pakistan, 2021). The law aimed to give women a distinct platform to voice their grievances to an ombudsperson so that property-related concerns could be promptly settled. The provinces subsequently enacted this Act.

Although these legal reforms are a positive start toward allowing women to inherit, several obstacles must be overcome before they can be implemented. The application of these regulations is hampered by the nebulous notion of what might be deemed "illegal" in Pakistan's largely patriarchal society. It is unrealistic to expect ambiguously defined rights on paper to act as a catalyst for empowerment in a nation where women are expected to give away their property as presents to male relatives out of fear of losing familial support. The usefulness of these laws is restricted since their provisions do not address the root cause of cultural bias against women.

### Customary Laws

Like Islamic and state laws, customary laws have greatly influenced the fate of women's land rights in Pakistan. Customary laws have historically denied women the

right to own property. Because they affect women's daily lives, including their capacity to support themselves and their children and deal with poverty, customs that discriminate against women and limit their property rights are genuine and crucial. Due to their restricted access to property, particularly land, women are frequently the most socioeconomically disadvantaged members of our society. Generally, women are denied land because of the dowry they get on marriage, a common custom practised throughout the country. Extending it further, Momoe Makino holds, "Since dowry is not legally banned in Pakistan, the amount personally paid by the female respondent's parents can be asked without reservation (Makino, 2019, p. 775)."

Along with dowry, the customs of *haq bakhshwana* or literally "giving up rights" — in which girls are either never married or married to the Quran, or they are forced to relinquish their inheritance right before their marriage in front of the entire family — is also practised to keep property within the family by denying women their inheritance rights. This is customary in several tribes in Baluchistan, Khyber Pakhtunkhwa (KP), and interior Sindh (Hanif, 2013; Mumtaz & Noshirwani, 2013). Substantiating it, Amnesty International's report of 2002 claims, "There are currently over 5,000 women in Sindh married to the Holy Quran (Amnesty International, 2002)." One of the authors of this research paper knows three women whose families do not allow them to marry to avoid dividing and transferring agricultural land.

*Kari*, the killing of a woman who demands inheritance rights, is another custom mostly practised in interior Sindh to deny women their legal right to inheritance. There are certain instances where women are slain, such as *Kari*, if they attempt to assert their inheritance rights. The story goes as a girl demanding her inheritance right is falsely alleged for having an affair with someone (an invisible male). She is slain after being declared a *Kari* (an evil girl/woman) of an invisible *Karo* (an evil boy/man). This is a common practice in Sindh; however, in Punjab, the male members of the family typically obtain the thumb impression of the female inheritors on blank stamp paper, after which they steal the female's share (NCSW, 2006).

*Walver* is another type of marriage typically performed in Baluchistan and other parts of KP. It entails paying the bride's price, an intentional attempt to deny her or her children any inheritance rights (Naznin, 2014).

*Tamleek* — gifting property to one's lawful heirs while still alive — is the last customary practice that prevents women from inheriting. Furthering it, Faizur Rehman, the deputy director of the Shangla service delivery centre, said that he had observed a horrible trend during his time in the tax department: husbands use *tamleek* to transfer their properties to their sons, leaving their daughters with nothing. He further clarifies, "In *tamleek*, a person can transfer their land to their son or daughter. [Apart from *tamleek*,] if they choose to gift the property, they can do so to anyone even if they are not an immediate family member," he clarifies (Bacha, 2022).

## Policies

Despite the prevalence of the religious codes and the state laws, women's land rights plight is quite dismal. This is evidenced by the Demographic and Health Survey 2017-18 report, which claims, "97 per cent of women [across Pakistan] did not inherit land or a house, while 1 per cent each inherited agricultural land and a home. Less than 1 per cent of women inherited non-agricultural plots or residential plots (Bacha, 2022)." This is generally due to the lack of an implementation mechanism. The Government of

Pakistan has often devised policies to implement the existing laws, enhance gender equality, and advance women's empowerment. Therefore, guidelines have been formulated on the national and provincial levels, and commitments have been made internationally.

To begin with, the Ministry of Women's Development (MOWD), a national institutional apparatus established by the Pakistani government, was tasked with ensuring that gender issues should be incorporated into all ministries and departments. It recognised women's disadvantage and worked to empower them regardless of their caste, creed, or religion by creating the National Plan of Action in 2000 and the National Policy for Women's Development and Empowerment in 2002. Their primary goals were to end discriminatory customs, safeguard women's human rights, and eradicate inequality. Despite these policy initiatives, women's access to resources or land rights was not addressed directly. MOWD was delegated by assigning functions at the provincial level following the 18th Amendment. As the executing agency, MOWD lacked the necessary workforce and capability; furthermore, the devolution process's Declaration of Power Plan 2001 shattered the first attempts (Mustafa, 2011).

A governmental agency called the National Commission on the Status of Women (NCSW) was created in 2000 to act as a watchdog over government policies and promote changes that would enhance women's standing in society. It was previously ineffectual because its function was unclear. It now functions independently to carry out women's rights at the federal level. Like the MOWD, the NCSW does not directly emphasise women's land rights (NCSW, 2018; Saigol, 2011).

The right to land is not mentioned in the core action areas of the National Policy for Development and Empowerment of Women (2002). Still, it does declare that "steps are to be taken to ensure the access of poor rural women to land" (NCSW, 2019, p. 175). Few government initiatives put women's land ownership and control into practice, even when policy texts on women's rights acknowledge this as a significant component of their socioeconomic standing.

In addition to making national and provincial policies, Pakistan is also a signatory of international commitments like the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action (BDPA), the Millennium Development Goals (MDGs), and the Sustainable Development Goals (SDGs). Pakistan has ratified and pledged to the UDHR's principle that "everyone has the right to own property alone as well as in association with others (United Nations, 1948)," CEDAW's principles that "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property whether free of charge or for a valuable consideration" and "states parties must act to guarantee women's access to agricultural credit and loans, marketing facilities, appropriate technology, and equal treatment in land and agrarian reform as well as in land resettlement schemes (United Nations, 1979)," and BDPA's principle that "an equal right to inheritance (Nations, 1995)." MDGs One and Three and SDGs One and Five aim at eradicating extreme poverty and hunger, promoting gender equality, and enhancing women's empowerment.

Despite these policy initiatives and international commitment, the plight of women's land rights in Pakistan could not be improved considerably. This is mainly due to the lack of implementation of laws and policies and partly due to the conflict between

international commitments and state laws. Although Pakistan had ratified CEDAW, it had made it clear that it would not take any actions that would violate its laws or Constitution, including the requirements of Islamic law. Therefore, in Pakistan, each citizen's law still governs the devolution of land rights through inheritance.

## Practices

In addition to state legislation, Islamic inheritance laws, property regulations, and national and provincial policies, culture plays a significant role in shaping "gender and control over property" (Agarwal 1994). It is argued that property size often determines social prestige, political influence, and economic power, leading culture to create and reinforce the necessity of preserving property within the family. As a result, many women's births and weddings go undocumented, complicating their ability to inherit and hold property. Furthermore, many married women are compelled to relinquish their share of land to their brothers in exchange for a dowry. These customs also ensure that women maintain familial connections, which can be vital in times of need, allowing them to marry their children within the clan. Without these ties, families may ostracise them and their children (Zia-ur-Rehman 2010).

Additionally, despite Islamic law mandating the payment of a dower, women often postpone or waive this right on the eve of marriage or at a later time. If a woman seeks divorce independently, she may forfeit her entitlement to the dower. Moreover, there are numerous examples of coercion, violence, and cultural practices, such as cousin marriages, *watta satta* (the exchange of male-female pairs with another pair), *haq-bakhshwana*, and the right of *Tanazul*, which allows the recovery of inherited property from women (Abbas 2020; Zia-ur-Rehman 2010).

## Conclusion

In conclusion, the findings indicate that a complex interplay of laws (including religious codes, state laws, and tribal customs), policies (both provincial and national), and cultural practices collectively impede women's land rights in Pakistan. The existing laws concerning women's land rights are inconsistent, revealing a significant gap between theory and practice. Firstly, the concept of joint ownership of marital property is virtually nonexistent. Secondly, although Islamic law mandates the provision of a dower, a wife may postpone or waive this entitlement on the eve of marriage or thereafter, often due to societal pressure. Moreover, if a woman files for divorce independently, she forfeits her claim to the dower. Consequently, she loses her right to access land her husband's family owns, including household property.

Legal frameworks governing women's land rights do not address the joint ownership of property acquired during marriage, despite the joint investment of time, resources, and effort. Ideally, both partners should have ownership rights; however, the current situation often leaves the wife without entitlement. This is not due to explicit laws prohibiting joint ownership but rather a lack of legal requirement. As a result, the husband retains ownership of the purchased land, while the wife is excluded mainly out of concern that her relatives might inherit shares in the event of her death. It is essential to initiate a meaningful discourse on this matter and pursue legislative action to ensure joint ownership of marital property.

Additionally, a woman's inheritance is typically only half that of her male counterpart; in practical terms, a daughter is entitled to half of what her brother inherits.



The rationale behind this disparity lies in the expectation that when a man marries, he provides a *mahr*—a form of property that is solely hers. In Islamic tradition, a husband is also responsible for financially supporting his wife and children. In contrast, a Muslim wife is not bound by such obligations; her possessions and income remain entirely under her control, and she is only expected to contribute voluntarily if she chooses to do so. However, in today's economy, characterised by inflation and rising costs, families increasingly rely on the contributions of women for their survival. This reality highlights the need to reconsider the inheritance shares of male and female children. While traditional interpretations of Islam set a minimum inheritance for females at half that of males, there is no prohibition against granting equal shares to both daughters and sons. An equitable distribution would benefit families, empower women, and advance gender equality.

Like the existing laws, policies related to women's land rights are present in Pakistan. Different federating units have their policies alongside those of federal ones. Pakistan is a signatory to various international commitments, such as the UDHR, the Convention on the CEDAW, and SDGs, all aimed at promoting gender equality and empowering women and girls. The country has enacted several measures, including the MOWD, the National Plan of Action, and the National Policy for Women's Development and Empowerment, to enhance gender equality and ensure women's access to land rights. Nevertheless, the status of women's land rights remains poor, often due to a disconnect between existing laws and international commitments aimed at advancing gender equality. This lack of alignment among statutes, policies, and global obligations must be addressed to protect and promote women's land rights. This does not negate the challenges associated with implementing laws and policies.

Despite the existence of various laws and policies, a significant number of women are still denied the right to own, control, manage, utilise, and dispose of their land. This situation is mainly attributable to entrenched cultural norms and customary practices, including cousin marriages, *watta satta*, *haq-bakhshwana*, and the right of *Tanazul*, which often coerce women into relinquishing their inherited property. Consequently, this perpetuates a cycle of poverty—particularly among women—and reinforces patriarchal structures. There is an urgent need for new interpretations of legal and religious obligations, the abolition of harmful customary practices, and a comprehensive awareness program to encourage families to support women in claiming ownership and control of property and empower women to assert their rights to do so.

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